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# Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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**Committee against Torture**

## Decision adopted by the Committee under article 22 of the Convention, concerning communication No. 730/2016*, **

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| *Submitted by:* | J.O. (not represented by counsel) |
| *Alleged victim:* | The complainant |
| *State party:* | Georgia |
| *Date of complaint:* | 11 January 2016 (initial submission) |
| *Date of present decision:* | 9 August 2018 |
| *Subject matter:* | Deportation to Nigeria |
| *Substantive issue:* | Non-refoulement |
| *Procedural issue:* | Level of substantiation of claims |
| *Articles of the Convention:* | 1, 2 (1), 3, 12, 13, 14 and 16 |

1.1 The complainant is J.O., a national of Nigeria born on 7 January 1973, resident in Georgia. Her asylum request in Georgia was rejected and she claims that her deportation to Nigeria would constitute a violation by Georgia of article 3 of the Convention. She alleges a violation of her rights under articles 1, 2 (1), 12, 13, 14 and 16 of the Convention. She is not represented by counsel. Georgia made the declaration under article 22 of the Convention on 30 June 2005.

1.2 On 4 March 2016, pursuant to rule 114 of its rules of procedure, the Committee, acting through its Rapporteur on new complaints and interim measures, asked the State party not to expel the author while the complaint was being considered. However, on 10 October 2017, the Committee decided to accept the State party's request of 26 September 2017 to lift the interim measures.

### The facts as presented by the complainant

2.1 In January 2006, the complainant travelled to Mali to visit some friends, but later decided to live there. Seeing the situation of children on the streets, in 2008 she founded Gentillesse Internationale, a non-profit organization, to support and protect victims of human trafficking in Mali.

2.2 In October 2011, the Nigerian Ambassador to Mali asked for the cooperation of the complainant's organization on the issue of trafficking of Nigerian girls in Mali. In November 2011, representatives from the Nigerian Embassy in Mali, Interpol, the Nigerian

* Adopted by the Committee at its sixty-fourth session (23 July–10 August 2018).

** The following members of the Committee participated in the examination of the communication: Essadia Belmir, Felice Gaer, Abdelwahab Hani, Claude Heller Rouassant, Ana Racu, Diego Rodriguez-Pinzón, Sébastien Touzé, Bakhtiyar Tuzmukhamedov and Honghong Zhang.

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security forces, the Nigerian National Agency for the Prohibition of Trafficking in Persons and a Nigerian government agency on counter-trafficking came to the complainant's shelter in Bamako and requested her to provide housing for around 70 Nigerian girls who were victims of human trafficking in Mali and whom the Government of Nigeria wanted to rescue from sex slavery.[1] On 9 November 2011, the complainant went to a police station and met more than 80 women who claimed that they had been arrested, imprisoned and beaten by the Malian Police working with the National Agency for the Prohibition of Trafficking in Persons, and that their money had been taken. They also stated that they were traders who had come to Mali of their own free will and insisted that they were not victims of trafficking or sex slavery. Some of them declared that they were not Nigerians. The complainant was very worried about the inhuman treatment of those women and asked for their immediate release. However, officers of the National Agency for the Prohibition of Trafficking in Persons threatened to kill her for interfering in their operation. They also threatened to arrest and take her to Nigeria, and to kill her. On 12 November 2011, those women were forcibly repatriated to Nigeria. Most of those who refused to cooperate were imprisoned in Nigeria and forced to pay a ransom for their release.

2.3 On an unknown date, the complainant was summoned to a meeting at the Nigerian Embassy in Mali, where she was told that the Government had the right to do whatever they wanted with Nigerian citizens anywhere. Afterwards, the complainant went to Amnesty International in Mali to reveal those facts. She also sent messages to, among others, the National Agency for the Prohibition of Trafficking in Persons, the United Nations Children's Fund, the Nigerian Embassy in Mali and the International Organization for Migration. On 19 December 2011, the Nigerian security forces and agents of the National Agency for the Prohibition of Trafficking in Persons called the complainant from Nigeria to accuse her of violating national security. They threatened to arrest, persecute and kill her. They also warned her not to communicate any information regarding the operations of the Government of Nigeria in Mali to any organization. Thereafter, the threats to her life intensified: she was followed and threatened in Mali and she was also threatened by the Malian Police. She left Mali on 17 March 2012.

2.4 On 18 March 2012, the complainant entered the United Arab Emirates with a two-week visa. On 19 March 2012, she had an interview for admission to the Gulf Medical University Ajman, which offered her a one-year student visa. She registered for a course and started a programme.[2] She was advised[3] to report the death threats that she had received in Mali. She therefore reported the events to the police.

2.5 The complainant was then informed[4] that the Nigerian Embassy had been contacted and that the Embassy wanted her to return to Nigeria because she was a wanted person. She declared that she would not go back because her life was in danger. She was therefore taken to Sharjah Jail, where she slept on a wet floor in a packed cell. On 29 April 2012, she was transferred to the Dubai Immigration Jail in Al Aweer, where she was severely tortured.[5] On 7 June and 18 August 2012, she was brutally beaten by male prison staff. She sustained head and body injuries and severe physical abdominal trauma, which led to heavy non-stop bleeding for months. No medical treatment was provided. On several occasions, a representative of the Nigerian Embassy named Adama came to the jail and demanded her deportation. He stated that, according to the National Agency for the Prohibition of Trafficking in Persons, she was wanted by the Nigerian authorities. On 5 July 2012, Adama came back to the jail to threaten and hit her, until the immigration officers stopped him. He requested the immigration officers to do whatever possible to force the complainant to be sent to Nigeria, because the National Agency for the Prohibition of Trafficking in Persons and the Nigerian authorities were waiting for her.

[1] The complainant provided a copy of a press release allegedly printed from the National Agency's website, dated 17 November 2011, with the title "104 Nigerian sexual slaves evacuated from Mali".

[2] No further information provided.

[3] By a staff member of the Ewaa Shelters for Victims of Human Trafficking and by the Dubai Foundation for Women and Children.

[4] No further information provided.

[5] No further information provided.

2.6 On 8 July 2012, the complainant was taken to Abu Dhabi, in order to be sent back to Nigeria. She explained her situation and the threats to her life to an immigration officer. She said that she wanted to go to the Caribbean. The immigration officer in Abu Dhabi called the immigration services in Dubai and asked them to let her go to the Caribbean. She was sent back to Dubai on 11 July 2012. However, the immigration services refused to let her go to the Caribbean or to any other country. She was threatened by immigration services and the Nigerian Embassy with being sent to Nigeria. At the Dubai Immigration Jail, she was ordered to pay almost $3,000. She claims that she reported the illegal detention and torture, and that an investigation was ordered.

2.7 On 23 September 2012, the complainant alleges that the immigration services in Dubai forcibly and extrajudicially transferred her to the Islamic Republic of Iran as a spy, hoping that she would be tortured and killed. In the Islamic Republic of Iran, on 18 January 2013, at around 2 a.m., an intruder tried to enter the room in which she was sleeping. Then, on 15 February 2013, after 3 a.m., an intruder wearing a mask grabbed her while she was sleeping. She screamed and the person ran out. She called the police, and the investigation revealed that the attacker had come from Dubai with another man a few days earlier. The attacker allegedly declared that his life would be in danger if the complainant pressed charges against him. The complainant informed the police that she did not want to press charges and signed a document given to her by the police.

2.8 While in the Islamic Republic of Iran, the Iranian authorities investigated the complainant. She was not allowed to leave the country for more than six months. When the Iranian authorities called her in for questioning, she stated what had happened. She asked to be allowed to go to Georgia, where she could get a visa on arrival, and from where she could go to a safe place. On 22 April 2013, the complainant was allowed to leave the Islamic Republic of Iran to go to Georgia.

2.9 On 23 April 2013, the complainant arrived in Georgia and sought asylum the same day. On 1 May 2013, she was sent to the Martkopi Reception Centre, a communal housing project for asylum seekers, operated by the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia (hereafter "the Ministry"). For the complainant, this place was a mismanaged and hostile environment, in which the staff commonly submitted asylum seekers to torture and brutalization.

2.10 On 3 May 2013, the complainant was allegedly attacked and injured by a woman with a mental impairment and a male security officer acting in an official capacity. The police were called and the complainant was taken to the police station, where she suffered a "serious medical emergency" because of the injuries inflicted on her. When the paramedics arrived, the Ministry staff allegedly refused to allow them to take the complainant to hospital for further treatment and evaluation.[6] The physical trauma to her chest and abdomen caused her to experience forced menstruation and heavy bleeding for months without receiving treatment. Then, on 21 May 2013, she was taken to the Martkopi ambulatory hospital, where she was prescribed some antibiotics and advised to return the following day for blood tests. However, the Ministry staff refused to take her back to the clinic for treatment, allegedly declaring that the Ministry did not have funds for medicines. A member of staff at the Ministry named Yagoo even attacked her for requesting a copy of her prescription to get her medicines. The complainant also declares that the Ministry staff refused to buy most of the medicine that she had been prescribed for the injuries and infection that she had contracted at the Centre. She was also not provided with food. On 23 May 2013, the complainant and other residents were physically attacked by Yagoo and other Ministry staff, who threatened to evict, imprison and deport them. Fearing for their safety, an asylum seeker called the emergency hotline of the Protection Unit of the Office of the United Nations High Commissioner for Refugees (UNHCR) to report the hostilities. UNHCR stated that they were coming, but arrived only the following day, on a pre-scheduled visit, without taking proper measures to protect them. No action was taken to address their grievances. On 24 May 2013, the Ministry staff held a meeting with all the asylum seekers at the Martkopi Reception Centre, and they threatened to imprison and

[6] She claims that she received only "injections and other medicines".

deport the complainant and other asylum seekers if they reported any abuse. The complainant was told that her asylum application would be rejected.

2.11 On 7 June 2013, the Director of the Martkopi Reception Centre informed the complainant that, on 10 June 2013, she would be moved to a small overcrowded room. Due to the unbearable living conditions at the Centre and warnings from Ministry staff that they would not protect her from further attacks, the complainant informed the Director that she was seeking an apartment so that she could leave the premises for her own safety. On 8 June 2013, while she was gathering her belongings to leave, a member of the Ministry staff named L. started harassing her by saying that she would not be granted asylum in Georgia. He attempted to extort money from her and started beating her. When other residents heard her screams, they came to her rescue. As a result, the complainant was injured in the head, face and hands, and her belongings were stolen or damaged. She reported the incident to UNHCR and the Ministry. On her subsequent visit to the Human Rights Centre in Tbilisi on 18 July 2013, the staff saw the injuries caused by L. and advised her to report the incident to the police. The complainant was afraid of repercussions, but she accepted to go to the Office of the Public Defender of Georgia, to whom she told her story. She also declared that she had sent a written statement to UNHCR and to the Ministry, in the hope that they would resolve the matter in a constructive manner. The Office of the Public Defender requested a criminal investigation through the Ministry of Internal Affairs and the Chief Prosecutor's Office.

2.12 In July 2013, the Ministry of Internal Affairs stated that, according to an examination of the facts mentioned in the letter from the Office of the Public Defender, there were no grounds for initiating a criminal investigation. The case was therefore closed. The Office of the Public Defender had also invited the Chief Prosecutor's Office at the Ministry of Justice to intervene; it did so on 27 August 2013, indicating that there were no grounds for initiating a criminal investigation. On 9 September 2013, the complainant was informed that the Office of the Public Defender was not authorized to take any other legal measures and that her case was closed.

2.13 Also in July 2013, the complainant visited the Georgian Centre for Psychosocial and Medical Rehabilitation of Victims of Torture for medical and social assistance. At the time, the Centre did not have sufficient funds to address her medical needs. She returned in May 2015, after being diagnosed with a uterine myoma at the Curation medical centre (see below). On that occasion, the Centre was able to buy her the medication that she had been prescribed for one month.

2.14 In July and August 2013, the Psycho-Rehabilitation Centre for Victims of Torture, Violence and Pronounced Stress Impact took the complainant to a clinic for a diagnosis,[7] which revealed that she was suffering from post-traumatic haematomas of the abdomen and liver and other illnesses. In August 2013, the Director of the Centre sent an urgent request to the Ministry, claiming that the complainant was suffering from severe medical problems and needed timely surgery, as well as accommodation and living expenses. On 27 August 2013, the Ministry replied by offering her the equivalent of $40 to buy medication for "the alleged infection from the toilet at the Centre". However, the complainant mentions that she refused because her medical bill was already more than $2,000 and she needed surgery, which would have costed another $1,000.

2.15 On 8 August 2013, a police officer named V.T. accompanied by a woman interpreter went to the complainant's apartment to take her statements. The complainant alleges that, when leaving, V.T. touched her breast and smiled at her. Then on 14 and 28 August 2013, V.T. allegedly came alone to her apartment to torture and rape her at gunpoint. The complainant believes that these retaliatory acts were inflicted on her to punish, intimidate, humiliate and cause her unbearable mental and physical anguish, for complaining about the acts of torture and brutality perpetrated by government officials.

2.16 The complainant reported these incidents to the Office of the Public Defender, the Chief Prosecutor's Office and the Ministry of Internal Affairs. However, she did not obtain

[7] CT scan, ultrasonography and MRI.

a positive result and allegedly no investigation was carried out.[8] She was even humiliated while being questioned by the Rustavi District Prosecutor's Office regarding the rape incident. Investigators from the Prosecutor's Office retaliated for reporting the rape by entering her apartment while she was out, tampering and damaging her computer, following her, and intimidating and harassing her. The police also threatened her neighbours. She reported the incident to the UNHCR Protection Unit, but they did not provide any response.

2.17 On 24 January 2014, the Ministry dismissed the complainant's request for refugee and humanitarian status given the lack of evidence of persecution in her own country. The Ministry did not consider her allegations that she had been threatened by staff from the National Agency for the Prohibition of Trafficking in Persons. The Ministry also noticed that the complainant had refused to disclose her email correspondence with the Nigerian Ambassador. The Ministry determined instead that her problems in Mali had resulted from a financial disagreement between the complainant and local officials regarding the compensation for the costs she incurred in sheltering the alleged victims of trafficking from Nigeria.

2.18 On 1 March 2014, UNHCR sent the complainant to a clinic, where she was given a prescription for pain medication. The prescription was sent to the Ministry, which insulted and threatened her and refused to give her the medicine until UNHCR intervened again on 14 March 2014. When she took the tablets, she felt ill, but the Ministry refused to take her to hospital because of lack of funds. In a medical test carried out by UNHCR in Tbilisi in July 2014, the complainant was diagnosed with uterine cancer, which was spreading to other areas of her body. She notes that most asylum seekers at the Martkopi Reception Centre have fallen sick with cancer and other fatal diseases.

2.19 On 5 March 2014, the complainant lodged a complaint with the department of the Ministry of Internal Affairs that dealt with police misconduct to report and request an investigation into the rape and threats to her life perpetrated by the police officer V.T. On 14 March 2014, her complaint was transmitted to the Rustavi District Prosecutor's Office for criminal investigation. On 21 March 2014, the complainant was summoned for interrogation by the prosecutor. During the meeting, the prosecutor was allegedly very aggressive towards the complainant and humiliated her. In particular, the complainant offered to describe identifying marks on V.T.'s body, but the prosecutor refused. On 5 April 2014, the prosecutor came to inspect the complainant's apartment and, on 8 July 2014, the complainant was invited again to the prosecutor's office, but thereafter she received no information on the investigation.

2.20 In April 2014, the complainant reported obstruction of justice by the Rustavi District Prosecutor's Office to the Division of Human Rights Protection of the Chief Prosecutor's Office. However, she was not informed about the follow-up to her complaint.

2.21 On 8 May 2014, Tbilisi City Court rejected the complainant's appeal against the Ministry's decision to deny her request for asylum, based on the fact that she had not proved the alleged persecution in her country of origin. That judgment was upheld by the Tbilisi Court of Appeal on 24 November 2014 and then by the Supreme Court on 22 October 2015.

2.22 On 7 July 2014, the complainant complained to the Chief Prosecutor of Georgia and to the Rustavi District Prosecutor about the handling of her case by the Rustavi District Prosecutor's Office and requested the investigative records of her case. On 27 July 2014, she was informed by the prosecutor handling her case (para. 2.19) that she had no right to any information regarding the investigation or the police report.

[8] On 19 November 2013, the Public Defender received a letter from the Ministry of Internal Affairs' General Inspection Department, which stated that: "Mr. V.T. is not registered as an employee of the Ministry of Internal Affairs. Therefore, disciplinary proceedings cannot be initiated against him." However, the complainant pretends that she provided the Public Defender with V.T.'s telephone number. The Public Defender's staff called him, and V.T. admitted that he was a police officer employed by the Ministry of Internal Affairs and also that an investigation was ongoing. On 14 January 2014 or 21 August 2014, she was informed by the Public Defender that her case was closed.

2.23 Also on 7 July 2014, the complainant wrote to the Minister of Internal Affairs to report the abuse perpetrated by the police officer V.T., but on 21 July 2014 she was informed that her complaint had been forwarded to the Regional Prosecutor's Office.

2.24 On 1 October 2015, the complainant went to the main police station in Tbilisi to file a complaint against staff at the Human Rights Centre. However, during questioning, the police officers allegedly distorted her words and threatened her. On 18 October 2015, she reported the threats to the internal complaints department, which did not take any action.

**The complaint**

3.1 The complainant claims that her forcible return to Nigeria would constitute a breach by Georgia of article 3 of the Convention, insofar as she fears becoming a victim of torture or other cruel, inhuman or degrading treatment or punishment at the hands of the Nigerian authorities. She also fears for her life upon her return and being arbitrarily arrested.

3.2 The complainant also fears that the Nigerian authorities will carry out the many threats against her life and integrity received in Mali and the United Arab Emirates, because of her intervention for the rights of the women arrested in Mali and forcibly returned to Nigeria. She also requests the State party to protect her from further attacks and provide her with urgent medical treatment in order to treat her cancer. She alleges torture and brutalization at the reception centre.

3.3 The complainant submits that the Ministry intentionally jeopardized her asylum claim as a retaliatory measure by providing and using falsified and irrelevant information to decide on her claim and by omitting the factual circumstances and essential evidence that prove that the Government of Nigeria was and is a danger to her life. The Supreme Court dismissed her appeal citing an amendment to the Code of Administrative Procedure in Georgia. That amendment had become effective three months earlier and the complainant argues that the purpose of that change was to harm her. According to the complainant, the Tbilisi Court of Appeal also violated the time limit to decide on her claim, because it took it six months rather than five days to write the verdict. This has allegedly prevented her from filing an appeal and obtaining a decision from the Supreme Court before the change of the law. The courts have also deliberately ignored the corroborative facts that she presented in support of her request for asylum and did not take into account the general situation in her country of origin.

3.4 Invoking articles 12 and 13 of the Convention, the complainant contests the absence of an official investigation into her allegations of acts of torture by an official named L. at the Martkopi Reception Centre. Instead of protecting her from further attacks, as a retaliatory measure for having complained to the Office of the Public Defender, the police department sent police officer V.T. to brutally attack and rape her on 14 and 28 August 2013.

3.5 The complainant accuses the State party of causing her cancer and preventing her from getting the life-saving medical treatment that she needs. She also accuses the State party of: blocking all her correspondence; not providing her with food and heating; not allowing her to make bank transactions;[9] blocking her access to the Internet; deliberately delaying her monthly allowance from a UNHCR project; seizing the funds for clothing provided by UNHCR; carrying out an illegal search of her apartment; poisoning her; interfering with her right of association with other people; and intercepting and deleting her emails. She also claims that she is followed whenever she leaves her apartment. She also declares that the Public Defender of Georgia is corrupt and covers up torture and discrimination against her.

3.6 The complainant also submits that UNHCR staff in Tbilisi were fully aware of the abuse suffered by asylum seekers at the Martkopi Reception Centre and were complicit in covering up the brutal attacks. She affirms that UNHCR in Georgia is a very corrupt organization, which has violated its mandate to protect and do no harm and which carries

[9] She alleges that she is considered a terrorist because "Western Governments have Nigeria on their list of terrorist countries not allowed to make bank transactions".

on its illegal criminal activities with the careless knowledge of the UNHCR Inspector General in Geneva, who has disregarded her complaint and those of other asylum seekers.

**State party's observations on admissibility and the merits**

4.1 On 5 September 2016, the State party submitted observations on the admissibility and the merits of the communication.

*As to the facts*

4.2 The State party submits that the first disagreement between the complainant and the Malian law enforcement authorities occurred when she was asked to deliver food to the police station where the victims of trafficking were placed. The complainant argued that the victims were supposed to be sheltered in her organization's building, not in the police station. She also informed the Nigerian Embassy about this fact but continued delivering food to the victims at her own expense for five days. She was promised a reimbursement by the Malian Police. Several days later, she found out from an article by the British Broadcasting Corporation that the victims had been returned to Nigeria by plane. The Malian Police thought that the complainant had already received reimbursement from the Nigerian Embassy and asked her to return the payment that they had given to her.

4.3 As to the proceedings in Georgia, the State party submits that, after being interviewed on 18 October 2013 and 21 January 2014, the complainant was not granted either refugee or humanitarian status because the Ministry considered that her fear of persecution in Nigeria was not founded on objective grounds. It did not accept the complainant's allegations regarding death threats from officials at the National Agency for the Prohibition of Trafficking in Persons because it was the National Agency that had carried out a special operation with Malian law enforcement officers aimed at releasing Nigerian women who were victims of human trafficking. In fact, the National Agency and the complainant had an agreement under private law. In particular, the complainant's organization was responsible for providing the food for women who were victims of human trafficking. According to the evidence provided by the complainant to the Ministry, the National Agency did reimburse her. Moreover, in the event of a misunderstanding, it would be a private dispute between the parties to the agreement, not persecution. Furthermore, there was no evidence that the complainant was persecuted or had a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or opinion and, because of such fear, she was not able to return to her country of origin or to enjoy the protection of that country. The dismissal decision also mentioned that, during an interview, the complainant was aggressive and her answers were not consistent since her allegations regarding her persecution by the National Agency were false.

4.4 As to the complainant's appeal before the courts against the Ministry's decision, the State party mentions that, on 8 May 2014, the Tbilisi City Court dismissed her complaint because she had not presented any evidence that would reasonably support her allegations of persecution or a well-founded risk of becoming a victim of persecution. Moreover, she failed to cooperate when she was asked to submit emails or other supporting correspondence, stating that she had forgotten her password. It was also uncertain what kind of relationship she had with the Nigerian and Malian officials. She stated that the authorities had not reimbursed her costs. However, when the Ministry representative asked why she had indicated in her application for asylum that she had been given a payment, the complainant answered that she did not remember why she had done that. Furthermore, the Court paid attention to the complainant's allegations that victims of human trafficking were detained in a Malian police station and that she had found out about their release from the British Broadcasting Corporation. The City Court examined the article in question and found that it was in fact issued in 2010,[10] and not in 2011 as claimed by the complainant. In addition, it was not established that she was under surveillance in Georgia and receiving threatening messages, which were deleted automatically. With regard to the fact that the Malian Police allegedly asked her for money, the City Court stated that it should be

[10] The State party makes reference to Caroline Duffield, "Nigerian sex slave rescue from Mali 'fails'", 23 December 2010, British Broadcasting Corporation News.

considered as a contractual dispute rather than persecution. Thus, the City Court concluded that the complainant's fears were subjective and that the refusal to grant her refugee or humanitarian status was in accordance with the Convention relating to the Status of Refugees and the relevant Georgian legislation.

4.5 The State party further submits that, on 29 July 2014, the complainant filed a new application before the Ministry and asked for humanitarian status, under newly discovered circumstances, as she had been diagnosed with uterine myoma. The Ministry examined her case again and, on 10 October 2014, she was granted humanitarian status. On 11 September 2015, the complainant's humanitarian status was renewed for one year. As at the date of submission of the State party's observations, the complainant enjoyed humanitarian status, which was valid until 28 October 2016, after which time the Ministry would consider the renewal of her status again for one year, as prescribed by Georgian law.

4.6 As to her placement in the Martkopi Reception Centre on 1 May 2013, the State party submits that the complainant received monthly financial assistance for asylum seekers and also, while in the Centre, she was twice provided with medicine, on 21 and 27 May 2013. However, while in the Centre, the complainant engaged in aggressive and strange behaviour; she was therefore offered a psychological consultation and examination, which she refused. She was also involved in several incidents with roommates and staff members who were attacked by her when they discovered that she was stealing from the Centre. She decided to leave the Centre on 8 June 2013. From January 2014, after the complainant had moved into a private property, the Ministry, in cooperation with UNHCR, granted her monthly financial assistance along with social aid for rent and other living costs.

4.7 As to the incident of 3 May 2013, an investigation was launched as the security service of the Centre had informed the police that two roommates had had a fight with each other. The police arrived immediately and interviewed the complainant and her roommate. Apparently, the complainant was listening to music on the radio while the other woman wanted to pray. The forensic examination revealed that the complainant had injured her roommate, hitting her in the face with a blunt tool. However, when the complainant and the other woman were interrogated again by the police on 22 May 2013, both of them clearly stated that their conflict was over and the dispute had been resolved peacefully. Therefore, on 28 May 2013, the investigation was closed.

4.8 As to the incident of 8 June 2013, the State party submits that, on 24 July 2013, the Office of the Public Defender informed the Chief Prosecutor's Office that, according to the complainant's statement, she had been beaten by a staff member of the Centre named A.G., who had also asked her for money when she was leaving. On 2 August 2013, the police started an investigation. A detective, V.T., interviewed the complainant, the two staff members involved and other occupants of the Centre. Both staff members declared that it was actually the complainant who attacked L. when he asked her to return the Centre's belongings. This was confirmed by the records of the security service's journal that day and also by the reception room supervisor. L. also indicated that the complainant had engaged in particularly aggressive behaviour. This was confirmed by various witnesses, including the Director of the Centre, who declared that, on 3 May 2013, the complainant had attacked and injured her roommate, and that they had had to move her into a separate room. The taxi driver who helped the complainant to leave the Centre on 8 June 2013 declared that he did not see any sign of conflict when he arrived to pick up the complainant and that he saw L. helping her to place her luggage in the car. Moreover, E.M., who, according to the complainant, was an eyewitness, did not confirm the incident. Thus, the alleged beating of the complainant on 8 June 2013 was not confirmed and a formal investigation was not initiated.

4.9 Regarding the rape allegedly perpetrated by V.T. on 14 August 2013, the State party submits that, the following day, she went to the Psycho-Rehabilitation Centre for Victims of Torture, Violence and Pronounced Stress Impact, but did not make any reference to this event, allegedly because she was ashamed. Only after the alleged second rape did she go to the Office of the Public Defender and also to the Centre to complain. On 6 March 2014, she was assisted by UNHCR to write a statement, which was then transmitted to the law enforcement authorities. According to the State party, the complainant declared to the prosecutor that V.T. had not forced her to have sex with him, but that she did not resist

because she was afraid. The prosecutor interrogated the Director of the Centre, who declared, among other things, that the complainant had not presented any injuries when they met and also that she had doubts as to the credibility of the rape allegations.

4.10 The State party submits that the Chief Prosecutor of the Kvemo Kartli investigation unit interrogated V.T. twice, on 4 April and 2 July 2014. V.T. denied any accusation of abuse, saying that he first met the complainant in the presence of an interpreter, then in the presence of a young woman invited by the complainant, who interpreted from Georgian to English. He also clarified that, when the complainant affirmed that she did not like Georgia, he explained that he had injuries from bullets for serving his country, but that he did not take off his clothes at any point in the interview. When the interpreter was interviewed by the prosecutor, she denied that V.T. had committed any act of violence and declared that "the one who was aggressive and excited was the complainant herself".

4.11 The State party also submits that the Chief Prosecutor of the Kvemo Kartli investigation unit interrogated the Director of the Martkopi Centre on 26 March 2014. The Director declared that, on 3 May 2013, the complainant attacked her roommate. Staff intervened and tried to calm her down. Then the police arrived and interviewed the relevant individuals, including the complainant. On 22 May 2013, the complainant was also in conflict with her neighbours and requested the Centre to expel them. Then, when she was leaving the Centre, she wanted to take items that had been loaned to her by the Centre. L., a staff member, did not allow it. As a result, she physically assaulted him.

4.12 The prosecutor also examined the complainant's apartment and obtained a court decision allowing access to the telephone records between the complainant and V.T. from 1 August 2013 to 8 April 2014, which revealed several interactions between them. In particular, calls and messages were made or sent from V.T.'s telephone to the complainant's telephone on 8, 14, 19, 26, 27 and 28 August 2013. During his interrogation by the prosecutor on 2 July 2014, V.T. explained that he was investigating her case and, because she did not understand Georgian, he was calling several times with the help of his colleagues in order to explain the procedure and decisions taken or to clarify issues.

4.13 The State party then submits that, on 5 and 7 April 2014, the complainant sent to the prosecutor aggressive text messages, which contained statements such as: "I will see you in an international court. You should be ashamed of passing information to a rapist officer" and "the Georgian detective raped me and the Georgian Prosecutor's Office is giving the detective information to cover up the rape". The State party also alleges that the complainant deliberately obstructed the investigation. For example, when the prosecutor called her on 30 June 2014 to notify her (with the help of an interpreter) that the Office of the Chief Prosecutor of the Kvemo Kartli investigation unit sought to interview her on 1 July 2014, the complainant refused to cooperate with the investigation.

4.14 On 4 November 2014, the prosecutor decided to close the investigation into the complainant's allegations of rape because neither the relevant testimonies nor an examination of the complainant's apartment provided evidence of sexual assault. Furthermore, the relevant telephone records had been duly examined and nothing suspicious had been found. The complainant did not present any threatening text messages from V.T., claiming that she had deleted them. She also refused to cooperate further with the investigation, declaring that she did not trust the Georgian authorities. The prosecutor found that no force or threat was ever used by V.T. and even the complainant did not doubt this. The interpreter also denied any kind of threatening or suspicious acts from V.T. towards the complainant. Moreover, according to the complainant, she had thrown away all physical evidence (e.g. condoms) of the alleged rape. The prosecutor also observed that, in the past, the complainant had made false and defamatory statements and engaged in aggressive behaviour.

4.15 The State party submits that, from 1 May 2014 to 29 February 2016, the Ministry granted the complainant financial assistance amounting to approximately $5,440. The Ministry has also financed the complainant's medical examinations as well as her medical treatment. Only for these purposes, between 1 May and 23 September 2014, the Ministry spent the equivalent of approximately $740. As a result of the Ministry-sponsored medical examination, the complainant was diagnosed with uterine myoma. After finding the

appropriate hospital, the complainant was offered free surgery by the Ministry, but she refused it.

*As regards admissibility and the merits*

4.16 As far as the admissibility of the complaint is concerned, the State party submits that it is manifestly unfounded and that the complainant has failed to exhaust domestic remedies.

4.17 The State party considers that the complainant's allegations are false and represent an abuse of the right of submission and should be rejected in accordance with rule 113 (b) of the rules of procedure. The complainant did not present any appropriate documentation or information to prove the alleged violations. The relevant national authorities have examined and duly investigated all her allegations, and she was able to challenge the Ministry's decisions before the Administrative Court. Finally, when she met the necessary conditions prescribed by the law, she was granted humanitarian status.

4.18 The State party reiterates the above-mentioned information as to the investigations by the police and the prosecutor into her allegations, which have proven that her allegations of abuse at the reception centre and rape by detective V.T. were false. The complainant has also presented false allegations with regard to her financial assistance, as she received more financial assistance than any other asylum seeker and her monthly allowance was at least twice as much as a regular pension in Georgia. The complainant also had all appropriate medical examinations and medicine fully covered by the Ministry.

4.19 Regarding the exhaustion of domestic remedies, the State party declares that the complainant was able, under article 106 (1 bis) of the Code of Criminal Procedure, to challenge the prosecutor's decision to close the investigation, first before the prosecutor's superior and then before the courts. Moreover, no investigation was held into allegations of torture or other cruel, inhuman or degrading treatment because the complainant did not claim that she had been a victim of torture.

4.20 As to the merits, the State party asserts that the complainant claimed factual circumstances that was false and incoherent. The State party asserts that there is no basis to find a violation of articles 1, 2 (1), 3, 12, 13, 14 or 16 of the Convention.

4.21 As to the alleged violation of article 1 or article 16, the State party submits that there were no acts of torture or other cruel, inhuman or degrading treatment imposed on the complainant within the jurisdiction of Georgia. All her allegations were duly investigated and showed no sign of any crime having been committed. There was also no violation of article 2 (1) of the Convention, given that the complainant has never claimed before the relevant Georgian authorities that she was a victim of torture or other cruel, inhuman or degrading treatment within the jurisdiction of Georgia.

4.22 Regarding an alleged violation of article 3, the State party recalls that the complainant currently enjoys humanitarian status and, therefore, there has been no decision made on her alleged expulsion. She was not granted refugee status because an asylum seeker's statements on the reasons for seeking asylum are assessed in the light of all relevant evidence, including general background material on the situation and conditions in the country of origin, in particular whether systematic gross, flagrant or mass violations of human rights occur. The background material is obtained from various sources, including country reports prepared by other Governments, and information available from UNHCR and prominent non-governmental organizations.[11] In the present case, the Ministry and the courts duly examined all the information provided by the complainant in her application for asylum, but found that her subjective fears had no objective grounds.

4.23 Acknowledging the jurisprudence of the Committee that states that the risk of torture in the country of origin does not have to meet the test of being highly probable, but must be foreseeable, real, personal and present, the State party recalls that it is, in principle, for the complainant to adduce evidence capable of proving that there are substantial grounds for believing that, if the measure complained of were to be implemented, he or she would be exposed to a real risk of being subjected to treatment contrary to the Convention.

[11] *Sivagnanaratnam v. Denmark* (CAT/C/51/D/429/2010), para. 4.7.

Furthermore, the State party notes that it is frequently necessary to give asylum seekers the benefit of the doubt when it comes to assessing the credibility of their statements and supporting documents. However, in the present case, the State party insists that it is unnecessary to examine the alleged violation of article 3 of the Convention because the complainant has been granted humanitarian status and she does not risk being expelled from Georgia. On the other hand, the refusal to grant the complainant refugee status was in accordance with Georgian law and the decision was rendered after an examination of the complainant's case. As already mentioned, if the preconditions for which she was granted humanitarian status are not met, the relevant authorities shall, in accordance with the law, re-examine her humanitarian status.

4.24 As to the alleged violation of articles 12 and 13, the State party recalls that all the incidents were duly examined by the relevant authorities and that the complainant did not allege acts of torture or other cruel, inhuman or degrading treatment before the Georgian authorities. It also recalls that the complainant had the possibility to contest the decisions to close the investigations, but she did not use that remedy. Moreover, it was the complainant who frequently obstructed the investigation, threatening the prosecutor and refusing to give a statement or testimony. As to the independence and impartiality of the persons who carried out the investigations, the State party mentions that the alleged beating of the complainant in the Martkopi Centre was investigated by the Ministry of Internal Affairs, which is institutionally independent from the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia. Likewise, the alleged sexual abuse by the police detective, V.T., was investigated by the Chief Prosecutor's Office, which is institutionally separated and independent from the Ministry of Internal Affairs. The whole process was conducted with due effectiveness and scrutiny and there were no signs of any crime. Accordingly, the investigation was closed. Thus, there was no violation of articles 12 and 13 of the Convention.

4.25 Finally, after reiterating the link between articles 14 and 1 of the Convention, the State party submits that, given that no act of torture has been committed against the complainant within the jurisdiction of Georgia, article 14 is not applicable. The State party declares that the complainant had full access to national jurisdiction, that she was granted humanitarian status and financial assistance for asylum seekers, as well as free medical examinations and medicine.

**Complainant's comments on the State party's observations**

5.1 On 16 March, 21 April, 1 June, 9 August, 5 September, 22 October, 7 November and 5 December 2016, the complainant commented on the State party's observations. She requested the Committee to withdraw the interim measures and to request the State party to authorize her to leave Georgia for a third country that agrees to provide protection against torture. She alleges that the State party is still inflicting torture on her. She considers that article 3 of the Convention protects a person from being forced to stay in a country for the sole purpose of being subjected to torture and persecution. She also declares that the State party has violated the interim measures by sending immigration officers to arrest her.

5.2 The complainant declares that the State party, in collaboration with the Government of the United States, is trying to torture and assassinate her. She considers it well established that the State party is trying to sabotage her communication with the Committee. She refers to the State party as being "detrimentally and fraudulently calculated" and a "tortuous prison". She claims that she is denied basic human rights, such as medical treatment, food, and freedom to practise her religion, associate, move, enjoy her privacy and receive correspondence.

5.3 The complainant mentions that, on 28 November 2016, "a State agent" took the keys to her apartment and attacked her brutally several times. She called the police, who refused to intervene, and then the Immigration Department. She also called the UNHCR Protection Hotline, which informed her that she should go to the Ministry of Internally Displaced Persons, the Office of the Public Defender and to the Chief Prosecutor's Office to request protection. In any event, she claims that the attacker was not arrested and that the police did not carry out a proper investigation. Instead, she claims that a detective ordered her to drop the criminal complaint. She alleges that, eventually, she was forced by the police to sign a

false statement and denied the possibility to include her own comments to the effect that she did not agree with the statement.

5.4 The complainant denounces the multiple illegal entries into her apartment each time she leaves, that her food is poisoned, that "bad fumes" are pumped into her apartment to kill her, that noises from the upper apartment disturb her sleep and peace, that she is under constant harassment, that she is not allowed to buy medicine, that her communications are obstructed and that her life is in danger. She maintains that all the articles of the Convention invoked in her complaint have been violated by the State party and requests $33 million as compensation for the torture and other ill-treatment suffered, with a 100 per cent annual interest rate for delayed payment.

5.5 As to the exhaustion of domestic remedies, the complainant considers that she is not required to exhaust them because Georgian legislation restricts and nullifies her right to remedies and due process. She declares that the State party has denied her access to remedies. She claims that the absence of an independent judiciary, due to "the Government's gross systematic corrupt practices", has unreasonably prolonged and arbitrarily dismissed her case. She also declares that the Chief Prosecutor's Office did not provide evidence to prove that it had informed her about the closing of the criminal investigations and claims that she found out about their closure from the State party's observations submitted to the Committee. It has thus been impossible for her to challenge a decision that she did not know about.

5.6 On 6 February 2017, the complainant asked the Committee why it had, among other things, failed to instruct the State party to let her leave its territory, why it had given the State party impunity for continuing to violate her rights, attempting to kill her, leaving her outside the protection of the law and not providing her with food and medical treatment.

**State party's additional observations**

6.1 On 26 September 2017, the State party reiterated that the communication should be declared inadmissible because of the complainant's abusive conduct, namely that: (a) she contacts the authorities of the State party directly, bypassing the Committee; (b) she sends spam and insults the high officials of the State party with improper and offensive communications;[12] (c) she continuously provides the Committee and the State party with misleading information and fictional stories, among others, blaming the Government of Georgia, local and international non-governmental organizations, United Nations bodies (such as UNHCR), other member States and various ordinary individuals for ill-treatment, human trafficking, rape, terrorism, etc. In so doing, the complainant abusively misuses the resources of the Committee and those of the State party.

6.2 The State party informs the Committee that the complainant continues to send improper messages to public officials at their official email addresses and telephone numbers, which were not disclosed by the Government to the complainant. The last text message was received on 22 September 2017. The complainant has sent spam to the following officials: the Minister for Foreign Affairs; the Minister of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia; the Head of the Department of State Representation to International Courts of the Ministry of Justice; and various other officials, as well as representatives of international organizations. The State party considers that the Committee is the only authority to arrange communications between disputing parties and ultimately to deliver its opinion based on the information submitted by them in an appropriate manner. The State party thus condemns the complainant's irresponsible and unethical behaviour.

6.3 Regarding the complainant's allegation that, on 28 November 2016 (para. 5.4), she was hit by a private person "instigated by the Republic of Georgia", the State party submits that this is misleading information. On 28 November 2016, the complainant had an argument with her landlady due to her failure to pay the rent. When the brother of the

[12] For example: "the most racist, wicked, demonic and vicious liars on earth"; "they do not have common sense or brain cells"; "the little, dead cells"; "the little dead worm/dick rapist"; "terrorist-rapist Government are a disgrace"; "terrorist racist Government"; and "bigoted hellhole".

landlady decided to take the key, the complainant attacked him and started shouting. In response, he slightly pushed her. The complainant was not injured and did not suffer any kind of harm. After the arrival of the police, the complainant confirmed that she had no problems with the landlady or her brother. After the detailed analysis of the incident and considering that the complainant did not request further investigation, the police decided to close the case.

6.4 Regarding the complainant's allegation that she was insulted by the police on 1 October 2015 (para. 2.24) and that no disciplinary proceedings were conducted, the State party provides information demonstrating that these allegations are also false.

6.5 The State party then draws attention to the complainant's false statement that she was arbitrarily denied access to social aid. The complainant received the equivalent of more than $6,100 in social aid up to 2016, but since then, she categorically refuses to present her residence permit to the Ministry, which is a precondition for receiving financial support. Thus, it is due to the complainant's deliberate negligence that she no longer receives financial aid. The State party finds no rational ground on which the complainant could complain of the situation that she herself has created.

6.6 In the light of the above, the State party expresses its deepest concern for the complainant's abusive behaviour and concludes that to find such a complaint, which is totally *contra sensu*, admissible would not only hinder the credibility of the whole proceedings, but would also undermine the very spirit of the Convention, which is intended to be used in the fight against the gravest human rights violations, rather than dealing with fictional conspiracy theories.

6.7 On 7 August 2018, the State party submitted that, since 28 October 2016, the complainant's humanitarian status had been extended twice, and that she would enjoy that status until 28 October 2018, when the Ministry would again consider renewing it for one year in accordance with domestic legislation. The State party also submits that since the complainant benefits from humanitarian status, she is not subject to expulsion from Georgia and that the State party has no such intention. It further reiterates that the complainant uses abusive language vis-à-vis the Georgian authorities.

**Issues and proceedings before the Committee**

*Consideration of admissibility*

7.1 Before considering any claim submitted in a communication, the Committee must decide whether it is admissible under article 22 of the Convention. The Committee has ascertained, as it is required to do under article 22 (5) (a) of the Convention, that the same matter has not been and is not being examined under another procedure of international investigation or settlement.

7.2 As to the complainant's allegations of abuse by public officials of the State party, the Committee notes the State party's plea of inadmissibility based on non-exhaustion of domestic remedies. It notes that the complainant was able, under national legislation, to challenge the prosecutor's decision to close the investigation into her allegations — first, before the superior prosecutor and then before the courts. The Committee also notes the complainant's assertion that she did not contest the two decisions to close the investigations because she had not been informed about them. The Committee further takes note of the State party's statement that the complainant refused to take part in various investigations initiated in her case, that the complainant did not raise allegations of torture or other ill-treatment before national authorities, and that the complainant has not provided any documentation or information to the contrary. The Committee therefore concludes that the part of the communication in respect of articles 12, 13, 14 and 16 of the Convention is inadmissible because of non-exhaustion of domestic remedies under article 22 (5) (b) of the Convention.

7.3 Finally, the Committee notes the State party's argument that the complaint should be held inadmissible as manifestly ill-founded. The Committee notes the complainant's allegations of a risk of torture or ill-treatment in case of her forced removal to Nigeria. However, it notes that the complainant has not provided any evidence in that regard, but

constructed her allegations on the basis of general statements. The Committee therefore concludes that the complainant's communication is inadmissible for lack of substantiation, in accordance with article 22 of the Convention and rule 107 (b) of its rules of procedure.

8. The Committee therefore decides:

(a) That the communication is inadmissible under article 22 of the Convention;

(b) That the present decision shall be communicated to the complainant and to the State party.